



AGENDA

REGULAR MEETING LA JUNTA CITY COUNCIL

La Junta, Colorado

October 2, 2017

7:30 PM

Council Chambers

Municipal Building

601 Colorado Avenue

CALL TO ORDER (Mayor)

PLEDGE OF ALLEGIANCE (Mayor)

INVOCATION (Mayor)

ROLL CALL (City Clerk)

Council Members

Supervisors

Others

Velasquez

Goodwin

McKenzie

Horner

Pruyn

Vela

Eckhart

PROCLAMATION – TRIGEMINAL NEURALGIA AWARENESS DAY AND MONTH

MINUTES OF PREVIOUS MEETING (Mayor) (Action)

Regular Meeting September 18, 2017

CITIZEN PARTICIPATION FOR NON AGENDA ITEMS ONLY *(10 minute time limit per person)*

UNFINISHED BUSINESS

A. Second Reading/AN ORDINANCE ENACTING VACANT PROPERTY/BUILDING REGISTRATION (City Attorney) (Action)

NEW BUSINESS

A. Liquor Licenses (City Attorney) (Action)

1. Application for Renewal of a Liquor Store License by Big D's Liquor Mart LLC, d/b/a Big D's Liquor Mart, 26730 W. US Hwy 50.

2. Application for Renewal of an Alcohol Beverage Tastings Permit for Big D's Liquor Mart LLC, d/b/a Big D's Liquor Mart, 26730 W. US Hwy 50.

B. Committee/Board Reports

C. City Manager's Comments

D. City Attorney's Comments

1. Draft – Ordinance concerning Marijuana

E. Governing Body's Comments

ADJOURN

STATE OF COLORADO)
COUNTY OF OTERO) SS
CITY OF LA JUNTA)

CALL TO ORDER: The regular meeting of the City Council of the City of La Junta, Colorado, was called to order by Mayor Lynn Horner on Monday, September 18, 2017, at 7:30 p.m. in the Council Chambers of the Municipal Building.

PLEDGE OF ALLEGIANCE: The Mayor led everyone in the Pledge of Allegiance.

INVOCATION: Council Member Vela gave the invocation.

ROLL CALL: The following Council Members were present:

- Betty Velasquez, Ward 1
- Jim Goodwin, Ward 1
- Frank McKenzie, Ward 2
- Lynn Horner, Mayor
- Jeffri Pruyn, Ward 2
- Edward Vela, Ward 3
- Scott Eckhart, Ward 3

Absent: none

- Also present:
- Bill Jackson, Asst. City Manager
 - Phil Malouff Jr, City Attorney
 - Melanie Scofield, City Clerk
 - Todd Quick, Chief of Police
 - Eugene Mestas, 1203 Grace Ave
 - Thomas Martin, 402 Lincoln Ave
 - Susan Elliott, 1310 Lincoln Ave
 - Briana Dutro, 614 Raton Ave
 - Paul Velasquez, 1313 Bradish Ave
 - Julie Worley, 2417 San Juan Ave
 - Mike Mustain, Otero County Health Dept
 - Caitlin Coffield, Inspiration Field
 - Beverly Babb, 1120 W. 12th St
 - Gary Cranson, ARPA Representative
 - Mickey Bethel, Rocky Ford
 - Elaine McIntyre, 2022 Cimarron Ave
 - Carla Kennedy, 2107 Raton Ave
 - Cheryl Lindner, 16 E. 22nd St
 - Bette McFarren, La Junta Tribune Democrat

MINUTES OF PREVIOUS MEETING: Mayor Horner asked if there were any corrections to the minutes of the Regular City Council Meeting of September 5, 2017. Hearing none, he declared the minutes approved as published.

CITIZEN PARTICIPATION FOR NON-AGENDA ITEMS (10 minute time limit per person):

1. Mike Mustain, Tobacco Leadership Coalition – I'd like to give an update on the Non-Cigarette Tobacco Retailer License that you passed back in March. The first thing I'd like to do is to give out some thank you's. The first one is to Melanie Scofield. I appreciate her patience and hard work and getting all the administrative stuff out to make sure all the retailers got their paperwork. Secondly, I want to say thank you to the La Junta Police Department, Police Chief Quick and members of the department. The department has attended a few compliance check training

sessions. They have been really engaged and involved. We currently have nine retailers that are licensed and their fees have been paid. We are now addressing the turnover of employees and managers. In terms of the county, we have a work session scheduled tomorrow morning with the County Commissioners.

2. Thomas Martin, 402 Lincoln Avenue – There hasn't been a street sign in over a year at 402 Lincoln. I need to have this issue fixed. I've been to the City five or six times. I was told by Deb that it was removed because it didn't meet compliance. I have a tenant there and nobody can find her house. That's the first issue, the second issue I've had with the property is that a trash truck or snow plow has taken the whole corner off from my sidewalk. I have a handicapped individual that lives down the street from me who is threatening to sue me and take me to court. I talked to the City Engineering Department and I was told the funds weren't there to do that this year. I would like for you guys to take a look into that. The third thing that I have is that I own property next to this restaurant on 3rd Street with all the trash and rubbish. I need to know what the City plans to do about this. I also have an issue with the burnt up houses. I had a house at 1020 Smithland that I had to sell. I lost \$40,000 because the little pink house across the street was burnt up. I called the City because kids were playing in it; they just said their hands were tied. When a house gets burned up, something needs to be done on a timeline.

NEW BUSINESS

- A. **Application for a Special Event Permit by Inspiration Field, Caitlin Coffield, Event Manager.** The event is the 6th Annual Monster Bash Costume Party and Dance to be held on October 28, 2017 from 6:30 p.m. to 11:59 p.m. at 612 Adams Avenue. The application is in order and has been reviewed by City supervisors for compliance with City and State codes. The appropriate fee has been tendered and the premises have been posted. The City Attorney recommends approval.

MOTION TO GRANT A SPECIAL EVENT PERMIT TO INSPIRATION FIELD FOR THE 6TH ANNUAL MONSTER BASH COSTUME PARTY AND DANCE TO BE HELD ON OCTOBER 28, 2017 FROM 6:30 P.M. TO 11:59 P.M. AT 612 ADAMS AVENUE: Goodwin

SECOND: Velasquez

DISCUSSION: There was no discussion

VOTE: The motion carried 7-0

- B. **Aeronautics Grant Contract and Resolution.** The following resolution was presented for council's consideration as follows:

WHEREAS: The General Assembly of the State of Colorado declared in Title 43 of the Colorado revised Statutes, Article 10, 1991 in CRS §43-10-101 (the Act) "... that there exists a need to promote the safe operations and accessibility of general aviation in this state; that improvements to general aviation transportation facilities will promote diversified economic development across the state; and that accessibility to airport facilities for residents of this state is crucial in the event of a medical or other type of emergency..."

The Act created the Colorado Aeronautical Board ("the Board") to establish policy and procedures for distribution of monies in the Aviation Fund and created the Division of Aeronautics ("the Division") to carry out the directives of the Board, including technical and planning assistance to airports and the administration of the state aviation system grant program. SEE CRS §43-10-103 and C.R.S. §43-10-105 and CRS §43-10-108.5 of the Act.

Any entity operating a public-accessible airport in the state may file an application for and be recipient of a grant to be used solely for aviation purposes. The Division is authorized to assist such airports as request assistance by means of a Resolution passed by the applicant's duly-authorized governing body, which understands that all funds shall be used exclusively for aviation purposes and that it will comply with all grant procedures and requirements as defined in the Division's Aviation Grant Management Manual, revised 2009, ("the Manual").

NOW, THEREFORE, BE IT RESOLVED THAT: The CITY OF LA JUNTA, as a duly authorized governing body of the grant applicant, hereby formally requests assistance from the Colorado Aeronautical Board and the Division of Aeronautics in the form of a state aviation system grant. The CITY OF LA JUNTA states that such grant shall be used solely for aviation purposes, as determined by the State, and as generally described in the Application.

Each airport-operating entity that applies for and accepts a grant that it thereby makes a COMMITMENT to keep the airport facility accessible to, and open to, the public during the entire useful life of the grant funded improvements/ equipment; or b) to reimburse the Division for any unexpired useful life of the improvements/ equipment, or a pro-rata basis.

By signing this grant agreement, the applicant commits to keep open and accessible for public use all grant funded facilities, improvements and services for their useful life, as determined by the Division and stated in the Grant Agreement.

FURTHER BE IT RESOLVED: That the CITY OF LA JUNTA hereby designates as the Project Director, as described in the Manual and authorizes the Project Director to act in all matters relating to the work project proposed in the Application in its behalf, including executions of the grant contract and any amendments.

FURTHER: The CITY OF LA JUNTA has appropriated or will appropriate or otherwise make available in a timely manner all funds, if any, that are required to be provided by the Applicant under the terms and conditions of the grant contract.

FINALLY: The CITY OF LA JUNTA hereby accepts all guidelines, procedures, standards and requirements described in the Manual as applicable to the performance of the grant work and hereby approves the grant contract submitted by the State, including all terms and conditions contained therein.

MOTION TO ADOPT AERONAUTICS GRANT CONTRACT AND RESOLUTION: Velasquez

SECOND: Goodwin

DISCUSSION: There was no discussion

VOTE: The motion carried 7-0

C. First Reading/AN ORDINANCE ENACTING VACANT PROPERTY/BUILDING REGISTRATION.

MOTION TO ADOPT THE ORDINANCE ON FIRST READING: McKenzie

SECOND: Goodwin

DISCUSSION:

Council Member Vela: Is there any place in our ordinances Dean that require a certificate of occupancy on any building?

City Attorney Malouff: Certificate of occupancy is a professional term referring to when plans are submitted to the City and they have to meet certain building code requirements, whether its new construction or rehabilitation. That is the City's certificate that they have inspected the building. Simple maintenance doesn't necessarily require a certificate of occupancy but it may.

Thomas Martin, 402 Lincoln Avenue: I have a question to ask City Council, Mr. Malouff described this as basically for landlords. Can you explain this to me? Most of these houses that are vacant are homeowner owned. This gives a bad rap to landlords. If you're going to do this, it should apply to everybody.

Mayor Horner: We use that terminology but in reality it is whoever the owner of the property is.

Thomas Martin, 402 Lincoln Avenue: Right now the City of La Junta is going through a housing shortage. I get thirty to thirty-five phone calls a week. My question to you is how do you plan on enforcing this? If you're going to enforce it across the whole board isn't this going to be a lot of paperwork nightmare? Isn't this going to be a lot of cost incurred by the city too?

After lengthy discussion, Mayor Horner called for the question.

VOTE: The motion carried 7-0

- D. **A Resolution of the City Council of the City of La Junta, Colorado Supporting the Tiger 9 Grant.** Resolution No. R-18-2017 was presented for council's consideration as follows:

WHEREAS, the Seneca Group has been contracted by Burlington Northern Santa Fe Railway (BNSF) to coordinate the efforts and prepare a TIGER 9 grant application to be submitted to the United States Department of Transportation for funds to rehabilitate a portion of the route of Amtrak's Southwest Chief through the States of Kansas, Colorado and New Mexico; and

WHEREAS, Seneca has been working with Amtrak and the Burlington Northern Santa Fe Railway (BNSF) on behalf of Colfax County New Mexico to accomplish this purpose; and

WHEREAS, the issue of Colorado participation in the grant has been raised and the parties have agreed that this would strengthen the application; and

WHEREAS, if funded this rehabilitation will allow for repairs to the route at the most critical location in Colorado east of La Junta along with the work to be done in Kansas and New Mexico; and

WHEREAS, this commitment will demonstrate the seriousness of the commitment the states and communities along the route that they are involved in maintaining the route for Amtrak's Southwest Chief; and

WHEREAS, Amtrak has received preliminary information from BNSF regarding their participation and its commitment to the Southwest Chief route refurbishment TIGER 9 application; and

WHEREAS, the BNSF will select track portions most in need of repair including sections in Colorado; and

WHEREAS, local commitments must be secured by the appropriate parties as soon as possible; and

WHEREAS, BNSF has committed to maintaining the route at Class IV status if the route is fully rehabilitated.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LA JUNTA AS FOLLOWS:

- 1) The City Council does hereby endorse the application for the Tiger 9 Grant Fund.
- 2) The City Council does hereby encourage the State of Colorado to continue to fund the project.
- 3) The City Council does hereby encourage other communities to continue to endorse the application.
- 4) The City of La Junta will commit \$12,500.00 to be budgeted in 2017 as a match for said Tiger 9 Grant.

MOTION TO ADOPT RESOLUTION NO. R-18-2017: Pruyn

SECOND: Vela

DISCUSSION: There was no discussion

VOTE: The motion carried 7-0

- E. **Appointment of AVRMC Board vacancy by the Nominating Committee.** Council Member Goodwin reported the Nominating Committee's recommendation be to appoint Bob Blair for another term.

MOTION TO RE-APPOINT BOB BLAIR TO THE AVRMC BOARD FOR ANOTHER TERM:
Velasquez

SECOND: McKenzie

DISCUSSION:

Council Member Vela: How long has Mr. Blair been on the board?

Council Member Velasquez: He has been on the board for twenty years and has been the chair for twelve years.

VOTE: Those voting YES: Velasquez, Goodwin, McKenzie, Pruyn, Eckhart

Those voting NO: Horner, Vela

The motion carried 5-2

F. **Committee/Board Reports**

There were no committee/board reports.

G. **City Manager's Comments**

1. Assistant City Manager Jackson said that we continue to be busy with grants, resolutions and other projects. We appreciate your support.

H. City Attorney's Comments

1. Rick needs a pat on the back for something he's really jumped on having to do with these demolitions. There is at least four that can come down if everything falls into place. This is really something that Rick could not have anticipated. This opportunity was just dropped on him.

Assistant City Manager Jackson: These homes are asbestos free.

Council Member Vela: So will that take care of the five we talked about earlier Dean?

City Attorney Malouff: Four of the five for sure and I think we're going to get the fifth one.

Council Member Vela: So we're looking for a new five?

City Attorney Malouff: Yes and we already have a list we're working on. Again, it's always a question of dollars and cents.

I. Governing Body's Comments

1. Council Member Pruyn: What do we do with that property? Do we put it up for sale?

City Attorney Malouff: It depends on the circumstances. For example, the one by A to Z, the City is trying to sell that lot. There's another situation where we're trying to make a deal with the landowner that they can keep the vacant lot if they give us permission to knock it down. There's a third scenario where we just do it after we get court permission then we attach the expense as a lien on the property.

Council Member Pruyn: If we decided to let them keep the property after we took it down would there be some provisions that say they need to take care of that property and we're not going to be back cutting weeds and things like that?

City Attorney Malouff: It doesn't resolve them from having to abide by our already passed ordinances such as weeds. One of the benefits to the taxpayers is that it keeps the lot on the tax rolls. If we own too much property, there won't be anybody paying property tax.

2. Council Member Vela: I have a big thank you to Cheryl and the Barista for the free lunch at Early Settlers Day for the seniors. It was a terrific meal.

Cheryl Lindner: It was First Insurance that provided us with the ability to do that.

Council Member Vela: Thank you to First Insurance Services as well.

There being no further business, the meeting adjourned at 8:32 p.m.

CITY OF LA JUNTA

ATTEST:

Lynn Horner, Mayor

Melanie R. Scofield, City Clerk

SECOND READING

ORDINANCE NO. 1581

**AN ORDINANCE ENACTING
VACANT PROPERTY/BUILDING REGISTRATION**

WHEREAS, the City of La Junta contains many structures that are vacant in whole or large part; and

WHEREAS, in many cases the owners or other responsible parties of these structures are neglectful of them, and are failing to maintain them or secure them to adequate standard, or restore them to productive use; and

WHEREAS, many of these structures are in violation of state and local housing and property maintenance codes; and

WHEREAS, it has been established that vacant and abandoned structures cause severe harm to the health, safety and general welfare of the community, including diminution of neighboring property values, loss of property tax revenues, accumulations of trash and debris, increased risk of fire, and potential increases in criminal activity and public health risk; and

WHEREAS, the City incurs disproportionate costs in order to deal with the problems of vacant and abandoned structures, including but not limited to police calls, fire calls and property inspections and maintenance calls; and

WHEREAS, it is in the public interest for the City to establish minimum standards of accountability on the owners or other responsible parties of vacant and abandoned structures in order to protect the health, safety and general welfare of the residents of the City; and

WHEREAS, it is in the public interest for the City to impose a fee in conjunction with a registration ordinance for vacant and abandoned structures in light of the disproportionate costs imposed on the city by the presence of these structures;

WHEREAS, it is the intention of this Ordinance to establish and codify said process.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LA JUNTA:

SECTION I. That Sections 5.50.010 through 5.50.080 of the Municipal Code of the City of La Junta is hereby enacted to read as follows:

SECTION 5.50.010 PURPOSE.

The purpose of this ordinance is to establish a program for identifying and registering vacant residential and commercial buildings; to determine the responsibilities of owners of vacant buildings and structures; and to speed the rehabilitation of the vacant buildings. Shifting the cost of burden from the general citizenry to the owners of the blighted buildings will be the result of this ordinance.

SECTION 5.50.020 DEFINITIONS.

Unless otherwise expressly stated, the following terms shall for the purpose of this article, have the meanings indicated in this section.

- A. Secured by other than normal means - A building secured by means other than those used in the design of the building.
- B. Unoccupied - A building which is not being used for the occupancy authorized by the owner.
- C. Unsecured - A building or portion of a building which is open to entry by unauthorized persons without the use of tools or ladders.
- D. Vacant building. A building (excluding government owned buildings) which is:
 - 1) Unoccupied and unsecured; or
 - 2) Unoccupied and secured by other than normal means; or
 - 3) Unoccupied and an unsafe building as determined by the Engineering Department; or
 - 4) Unoccupied and having utilities disconnected; or

- 5) Unoccupied and has housing or building code violations; or
 - 6) Illegally occupied which shall include loitering and vagrancy; or
 - 7) Unoccupied for a period of time over ninety (90) days and having an existing code violation issued by the Engineering Department; or
 - 8) Unoccupied with a mortgage status of abandonment (deceased or foreclosed); or
 - 9) Unoccupied and abandoned by the property owner.
- E. Evidence of vacancy - means any condition that on its own or combined with other conditions present would lead a reasonable person to believe the property is vacant. Such conditions include but are not limited to: significantly below standard utility usage, overgrown and/or dead vegetation, accumulation of newspapers, circulars, flyers and/or mail, accumulation of trash, junk, and/or debris, broken or boarded up windows, abandoned vehicles, auto parts or materials, the absence of window coverings, such as curtains, blinds, and/or shutters, the absence of furnishings and/or personal items consistent with habitation or occupation, statement(s) by governmental employee(s) that the property is vacant.

SECTION 5.50.030 VACANT PROPERTY BUILDING REGISTRATION.

- A. The owner shall register with the Engineering Department not later than ninety (90) days after any building located in an area zoned for, or abutting an area zoned for, residential or commercial use in the City becomes a vacant building or not later than thirty (30) days of being notified by the Engineering Department of the requirement to register based on evidence of vacancy, whichever event first occurs.
- B. The registration shall be submitted on forms provided by the Engineering Department and shall include the following information supplied by the owner:
 - 1) The name(s) and address(es) of the owner or owners;

- 2) If the owner does not reside in Otero County or within 10 miles of La Junta City limits, the name and address of any third party who the owner has entered into a contract or agreement with for property management. By designating an authorized agent under the provisions of this section, the owner is consenting that the third party is authorized to receive any and all notices relating to the property and conformance of any and all ordinances;
 - 3) The names and addresses of all known lien holders and all other parties with an ownership interest in the building;
 - 4) A telephone number where a responsible party can be reached at all times during business and non-business hours; and
- C. The owner shall submit a vacant building plan which must meet the approval of the City Manager. The plan, at a minimum, must contain information from one of the following two choices:
- 1) If the building is to be demolished, a demolition plan indicating the proposed time frame for demolition which includes starting within thirty (30) days of acceptance of the proposed demolition timeline and does not exceed one year in accordance with the La Junta Building Code; or
 - 2) If the building is to be returned to appropriate occupancy or use, a rehabilitation plan for the building and grounds. The rehabilitation plan shall not exceed twelve months from the time they obtain permits, unless the City Manager grants an extension upon receipt of a written statement from the owner detailing the reasons for the extension. Any repairs, improvements or alterations to the property must comply with any applicable zoning, housing, historic preservation, or building codes and the property must be secured during the rehabilitation.
- D. All applicable laws and codes shall be complied with by the owner. The owner shall notify the Engineering

Department of any changes in information of their vacant building registration within thirty (30) days of the change. If the plan or timetable for the vacant building is revised in any way, the revision(s) must be in writing and must meet the approval of the City Manager.

- E. The owner and subsequent owners shall keep the building secured and safe and the building and grounds properly maintained in accordance with all applicable property.
- F. A new owner(s) shall register or re-register the vacant building with the Engineering Department within thirty (30) days of any transfer of an ownership interest in the vacant building if the building continues to remain vacant after transfer. The new owner(s) shall comply with the approved plan and timetable submitted by the previous owner until any proposed changes are submitted and meet the approval of the City Manager.
- G. The failure of the owner of the vacant building to obtain a deed for the property or to file the deed with the County Clerk & Recorder shall not excuse the property owner from registering the property.
- H. Failure of the owner or any subsequent owners to maintain the building and premises that results in remedial action taken by the City shall be grounds for revocation of the approved plan and shall be subject to any applicable penalties provided by the law.
- I. The City Manager shall include in the file any property specific written statements from community organizations, other interested parties, or citizens regarding the history, problems, status, or blighting influence of a vacant building.
- J. The registration and all associated processes must be completed in its entirety annually for as long as the property remains vacant.

SECTION 5.50.040 ESCROW.

- A. Each demolition of a vacant building requires that the owner hold in escrow with the City a deposit of:

- 1) An amount equal to the actual value as set forth on the most recent Otero County Assessor's Valuation Notice; or
 - 2) The actual cost of demolition removal and asbestos removal;
- B. If the amount to be set up in escrow cannot be paid in full, the City will place a lien on the property for the amount previously specified. The City will use these funds to complete the plans submitted by the owner in the event that the owner does not comply with the deadlines as previously submitted in the owner's vacant building plan.
- C. Escrow funds will be released upon completion of the work or transfer of ownership, provided that all fees have been paid in full.
- D. New owners must sign a form accepting responsibility for completing the demolition.

SECTION 5.50.050 INSPECTIONS.

The Engineering Department shall inspect any premises in the City for the purpose of enforcing and assuring compliance with the provisions of this Ordinance. Upon the request of the City Manager, an owner may provide access to all interior portions of an unoccupied building in order to permit a complete inspection. Nothing contained herein, however, shall diminish the owner's right to insist upon the procurement of a search warrant from a court of competent jurisdiction by the City Manager or his designee in order to enable such inspection. The City Manager shall be required to obtain a search warrant whenever an owner refuses to permit a warrantless inspection of the premises. The following shall apply:

- A. Vacant properties will be externally inspected by the Engineering Department a minimum of twice per year to ensure the compliance of property maintenance codes;
- B. Vacant properties will be both internally and externally inspected at the start of each registration period (new and renewal) and when the registration is terminated by the property owner;

- C. Vacant properties will be both internally and externally inspected upon acquisition of the property by a new owner and prior to an issuance of an Occupancy Permit;
- D. Any inspection that is to take place within thirty (30) days of a previous inspection may or may not be conducted at the discretion of the City Manager.

SECTION 5.50.060 VACANT BUILDING FEES.

The fees shall be reasonably related to the administrative costs for registering and processing the vacant building owner registration form and for the costs incurred by the city in monitoring the vacant building site. The annually increased fee amounts shall be reasonably related to the costs incurred by the City for demolition and hazard abatement of or repairs to vacant buildings, as well as the continued normal administrative costs stated above.

- A. The owner of a vacant building shall pay an annual fee of \$250.00 for the first year the building remains vacant. The owner of a vacant building shall pay an annual fee of \$500.00 for the second year the building remains vacant. The owner of a vacant building shall pay an annual fee of \$750.00 for the third year the building remains vacant. The owner of a vacant building shall pay an annual fee of \$1,000.00 for the fourth year and each subsequent year the building remains vacant.
- B. The annual fee shall be paid in full prior to the issuance of any building permits unless the property is granted an exemption. The fee shall be prorated and a refund may be issued if the building is no longer deemed vacant under the provisions of this article within one hundred eighty (180) days of its registry.
- C. All delinquent fees shall be paid by the owner prior to any transfer of an ownership interest in the vacant building. A lien may be placed on the property to collect delinquent fees.
- D. Late fees shall be paid in addition to the annual registration and will be equal to the annual fee or one thousand (\$1,000) dollars, whichever is less.

SECTION 5.50.070 EXEMPTIONS.

- A. A building under active construction/renovation and having a valid building permit(s) at the time of initial inspection shall be exempt from registration until the expiration of the longest running, currently active building permit.
- B. A building which has suffered fire damage or damage caused by extreme weather conditions shall be exempt from the registration requirement for a period of ninety (90) days after the date of the fire or extreme weather event if the property owner submits a request for exemption in writing to the Engineering Department. This request shall include the names and addresses of the owner or owners, and a statement of intent to repair and reoccupy the building in an expedient manner, or the intent to demolish the building.
- C. A building that is for sale and listed with a licensed realtor shall be exempted for a period of twelve (12) months from the start of vacancy, provided that the owner submits proof to the City Manager of such listing and for sale status.
- D. A building that has been granted an exemption pursuant to the following provisions. Any owner of a vacant building may request an exemption from the provisions of this Chapter by filing a written application with the Engineering Department who shall timely consider same. In determining whether a request for exemption should be granted the Director shall consider the following: the applicant's prior record as it pertains to City Housing Code, Building Code, or Property Maintenance Code violations; the amount of vacant property the applicant currently has within the City and the length of time that the building for which the exception is sought has been vacant.

SECTION 5.50.080 APPEALS.

Any owner who is served a notice of vacant property registration may, within ten (10) calendar days of receipt of such notice, apply for an exemption or appeal the findings of the Engineering Department as set forth in the Building Code.

PASSED on first reading this 18th day of September, 2017.

ADOPTED AND APPROVED this 2nd day of October, 2017.

CITY OF LA JUNTA

Lynn Horner, Mayor

ATTEST:

Melanie R. Scofield, City Clerk

DRAFT

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY OF LA JUNTA,
COLORADO, ENACTING "OFFENSES RELATED TO DRUGS,"
and "RECREATIONAL MARIJUANA," OF THE MUNICIPAL
CODE OF THE CITY OF LA JUNTA.**

WHEREAS, at the November 6, 2012 general election the voters of the State of Colorado adopted Amendment 64 to the Colorado Constitution, which is codified as Article XVIII Section 16 of the Colorado Constitution (Amendment 64"), and

WHEREAS, Amendment 64 permits persons twenty-one years of age or older to possess, use, display, purchase or transport one ounce or less of marijuana, or marijuana accessories, to grow and process limited amounts of marijuana; and

WHEREAS, this governing body, adopted an Ordinance imposing a moratorium on the operation of any marijuana cultivation facility, marijuana product manufacturing facility, marijuana testing facility or retail marijuana store within the City of La Junta pursuant to Amendment 64; and

WHEREAS, the City Council finds and determines that enactment of this ordinance is in the best interest of the health, safety and welfare of the citizens of the City.

WHEREAS, the City Council finds that cultivation, production, and processing of marijuana plants in residential buildings may produce a variety of deleterious effects upon the integrity of residences and the welfare of residential communities including, but not limited to, potentially unsafe structural alterations or additions to residences, extraordinary demands on and potentially unsafe alterations to residential electrical systems, additions of conduits for water and humidity that can facilitate the growth of dangerous or damaging molds and fungi, increased risk of the and electrocution due to the proximity of electrical uses and water supplies; potential toxicity of residential air supply due to the use of heating devices, generators, and the addition of carbon monoxide to growing environments; and increased risk of fire due to the presence of hazardous materials such flammable materials or

volatile substances used in the cultivation, production, and processing of marijuana plants or derivatives thereof; and

WHEREAS, permitting any person to cultivate, acquire, possess, store, produce, prepare, use, transport marijuana in any form pursuant to Amendment 64 without appropriate local regulation could create conflicts with the goals and objectives of the City's comprehensive land use plan, be inconsistent with residential land uses and other uses, or otherwise be detrimental to the public health, safety and welfare; and

WHEREAS, the City Council believes it is in the best interest of the City of La Junta to amend the Municipal Code as set forth herein, and that such action is necessary for the immediate preservation of the public property, peace, health, safety, and welfare of the City and for the financial well-being of the City:

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LA JUNTA, COLORADO, AS FOLLOWS:

Section 1. A new Section _____ is hereby enacted entitled "Recreational Marijuana" as follows:

SECTION _____: RECREATIONAL MARIJUANA.

(a) Intent. The City Council intends to regulate the use, possession, cultivation, production and distribution of marijuana in a manner consistent with Article XVIII, Section 16 of the Colorado Constitution Amendment (also known as Amendment 64) and finds that the provisions of this Section are directly and demonstrably related to the use, possession, cultivation, production and distribution of marijuana in a manner to minimize negative impacts on the community.

(1) Marijuana use, distribution, cultivation and production can have an impact on the health, safety, and community resources, and this Section is intended to permit marijuana cultivation and production so that it will have a minimal impact on the community.

(2) Use, distribution, cultivation, production, possession and transportation of marijuana remains illegal under federal law.

(3) The state law related to recreational marijuana is not intended to, and does not, address the local impacts of marijuana cultivation, production and processing, making it appropriate for local regulation of such activity.

(4) Nothing in this Section is intended to promote or condone the production, distribution or possession of marijuana in violation of any applicable law.

(b) Purpose. The purpose of this Section is to protect the public health, safety and welfare of the residents of the City by prescribing the manner in which recreational marijuana cultivation, production and processing may be conducted in the City. Further, the purpose of this Section is to:

(1) Provide a means of cultivation, production and possession of marijuana to persons permitted to obtain, possess and use marijuana or recreational purposes.

(2) Protect public with and safety through reasonable limitations on the cultivation, production and possession of marijuana.

(3) Protect public safety and residential areas by limiting the number of marijuana plants that may be grown in specific zoned districts.

Section 2: A new Section _____ entitled "Definitions" is enacted as follows:

SECTION _____: DEFINITIONS

The following words terms and phrases, when used in this Sections _____ through _____, shall have the following meanings unless the context clearly indicates otherwise:

1. **"Marijuana"** means all parts of the plant of the genus cannabis whether growing or not, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. Marijuana does not include industrial hemp, nor does it include fiber produced from the stalks, oil or cake made from the seeds of

the plant, sterilized seeds of the plant which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink, or other product.

2. **"Contiguous"**, in terms of determining the area devoted to the growing or processing of no more than six marijuana plants, means an uninterrupted expanse of space on the same floor or the level of the primary residence that can be measured by framing the area with four or more continuous and connected straight lines. The space within a single room which is defined by permanent perimeter walls is contiguous; the space within adjoining rooms divided by a permanent wall or permanent structure but accessible via a common doorway or connected by a common hallway is contiguous; however, nonadjacent spaces separated by two (2) or more permanent walls or separated by floors or levels of the building are not contiguous.
3. **"Lot"** means that real property around the primary residence and the buildings thereon that are commonly used for domestic and residential purposes.
4. **"Primary Residence"** means the place that a person, by custom and practice, makes his or her principle domicile and address and to which the person intends to return, following any temporary absence, such as vacation. Residence is evidenced by actual daily physical presence, use, and occupancy of the primary residence and the use of the residential address for domestic purposes, such as, but not limited to, slumber, preparation of and consumption of meals, regular mail delivery, vehicle and voter registration, or credit water, and utility billing. A person shall have only one primary residence. A primary residence shall not include accessory buildings.

Section 3: A new Section _____ entitled "Regulatory Requirements" is hereby enacted to read as follows:

SECTION _____: REGULATORY REQUIREMENTS.

(1) It shall be unlawful for any person to possess, grow, process or transport more than twelve (12) marijuana plants.

(2) Any lawful possession, growing, processing or transplanting of marijuana plants, with three or fewer being mature, flowering plants, shall occur within the primary residence of the person so possessing, growing processing or transporting the marijuana plants.

(3) The lawful possession, growing, processing or transporting of marijuana plants shall fully comply with all applicable provisions of Article XVIII, Section 16 of the Colorado Constitution, this Section, and all applicable requirements of the City of La Junta ordinances, resolutions, and regulations including, but not limited to, building and safety codes, and the La Junta Land Use Code, as may be amended.

(4) The lawful cultivation and processing of no more than twelve (12) marijuana plants shall not occur within a garage, whether attached or, detached or other structure designed or intended for the keeping or storage of vehicles, equipment, or goods.

(5) The lawful cultivation and processing of marijuana plants shall not occur within any common area(s) of a multi-family or single family attached residential property.

(6) The lawful cultivation and processing of marijuana plants shall not occur in the yard, lot, or other area or structure located outside of the primary residence, including but not limited to outdoor gardens, ancillary or accessory buildings, greenhouses, sheds, or storage units.

(7) The lawful cultivation and processing of marijuana plants shall not involve the use of chemical(s) for the purpose of enhancing, concentrating or extracting tetrahydrocannabinol (THC) from marijuana plants.

(8) The area of a primary residence devoted to the lawful cultivation or processing of plants, including the keeping, storage and maintenance of all materials, supplies, tools, equipment and marijuana accessories associated with the possession, growing or processing of no more than twelve (12) marijuana plants, shall not exceed the following:

(a) Within a single family detached dwelling unit, a maximum contiguous one hundred fifty (150) square foot area; or

(b) Within any residential structure other than a single family dwelling unit, a maximum contiguous one hundred (100) square foot area.

(9) It shall be unlawful for any person to use any compressed, flammable gasses as a solvent in the extraction of THC and other cannabinoids. Compressed, flammable gasses shall include, but is not limited to butane, propane and hexane.

Section 4: A new Section _____ entitled "Maximum number of plants" is hereby enacted to read as follows:

SECTION _____: MAXIMUM NUMBER OF PLANTS.

(1) It shall be unlawful for any person to cultivate, possess, process or transport more than twelve (12) marijuana plants, of which no more than three (3) plants may be mature, flowering plants in any dwelling unit on property in any zoned districts. Where more than one person resides in or has access to a single dwelling unit, such persons may cultivate, possess, process a maximum of twelve (12) marijuana plants, of which no more than three (3) may be mature.

(2) It shall be unlawful for any person to cultivate, possess, process or transport more than twelve (12) marijuana plants, of which no more than three (3) plants may be mature, flowering plants, on any property in any other zoned district.

Section 5. A new Section _____ entitled "Exterior Impact Unlawful" is hereby enacted to read as follows:

SECTION _____: EXTERIOR IMPACTS UNLAWFUL.

(a) It shall be unlawful for the cultivation, production, possession or processing of marijuana plants within a primary residence to be perceptible from the exterior of the primary residence by means including, but not limited to:

(1) Common visual observation, including any form of signage;

(2) Odors, smells, fragrances, or other olfactory stimulus generated by the cultivation, production, possession or processing of marijuana plants; or

(3) Light pollution, glare, or brightness of artificial illumination associated with the cultivation, production, possession, or processing of marijuana plants.

Section 6: A new Section _____ entitled "Penalty, Nuisance Declared" is hereby enacted to read as follows:

SECTION _____: PENALTY, NUISANCE DECLARED.

(1) It is unlawful for any person to violate any of the provisions of this Section. Any such violation is hereby designated a criminal violation, and any person found guilty (including a plea of guilt or *nolo contendere*) of violating any of the provisions of this Section shall, upon conviction, be punished pursuant to this Code.

(2) Each day that a violation of any of the provisions of this Section continues to exist shall be deemed a separate and distinct violation.

(3) The conduct of any activity in violation of this Section is hereby declared to be a public nuisance, which may be abated pursuant to the applicable provisions of this Code.

(4) In addition to other remedies available to the City, the City may commence an action to enjoin the alleged violation of any provision of this Section, or to authorize and compel the removal, termination or abatement of such violation.

Section 7: A new Section _____ entitled "Search Warrant Authorized" is hereby enacted to read as follows:

SECTION _____: SEARCH WARRANT AUTHORIZED.

(1) The City declares that its violation of this Section involves a serious threat to public safety or order within the meaning of Rule 241 (a)(I) of the Colorado Municipal Court Rules of Procedure.

(2) If the owner or occupant of the premises denies officials of the City, including any law enforcement officer, permission to enter and inspect the residential structure, or any accessory building, including but not limited to any shed or detached garage, authorized law enforcement personnel may request the La Junta Municipal Court to issue a search warrant for the inspection of the premises pursuant to the procedures and standards set forth in Rule 241(a)(I) of the Colorado Municipal Court Rules of Procedure.

(3) The Municipal Court may issue a search warrant authorizing officials of the City, including but not limited to any law enforcement officer, to inspect a residential structure for the cultivation, production, possession or processing of recreational marijuana plants in accordance with Rule 241(a)(I) of the Colorado Municipal Court Rules of Procedure. Any search warrant issued pursuant to this Chapter shall fully comply with the applicable provisions of Rule 241(a)(1) of the Colorado

(4) The Municipal Court may impose such conditions on a search warrant as may be necessary to protect the private property rights of the owner of the premises to be inspected or to otherwise ensure that the warrant complies with applicable law.

(5) It shall be unlawful and a violation of this Article for any owner or occupant to deny any official of the City access to the property owner or occupied by such owner or occupant if the authorized person presents a warrant issued pursuant to this Article.

Section 8. Effective Date. This ordinance shall be published and become effective as provided by law.

INTRODUCED, READ, PASSED, ADOPTED AND ORDERED PUBLISHED IN

INTRODUCED, PASSED ON SECOND READING AS AMENDED, APPROVED AND ORDERED PUBLISHED BY TITLE ONLY

FULL this ____ day of _____, 2017.

this ____ day of _____, 2017.

CITY OF LA JUNTA

Lynn Horner, Mayor

ATTEST:

Melanie R. Scofield, City Clerk